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## SUIT MIGHT HELP EX-AGENT

# CIA in Dilemma Over Book

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WASHINGTON — Although the CIA wants to sue an ex-agent for violating his oath of secrecy, Justice Department officials are concerned that such an action could backfire.

A lawsuit against former agent Frank Snepp might serve only to increase sales of a book Snepp admits he published in violation of a contractual agreement with the CIA.

On the other hand, to ignore Snepp's action might be "a message to other CIA employees and ex-employees that the government is not interested in protecting its official secrets," a Justice Department official said.

The dilemma was caused by publication last month of "Decent Interval," an account of the fall of Saigon that purports to expose high-level bungling in the State Department and the CIA. Snepp, who was assigned to the U.S. Embassy in Saigon during a panic-stricken attempt to evacuate American and Vietnamese collaborators from South Vietnam in April 1975, admits he violated his employment contract with the CIA in publishing the book.

The contract requires CIA employees to submit for censorship any work they intend to publish.

Snepp has admitted that he worked secretly with the book's publisher to circumvent the submission requirement of his CIA contract.

Otherwise, he contends, publication would have been held up by restraining orders, injunctions and demands for deletions by the CIA.

Intelligence agency sources say, on the other hand, that there are very few secrets in Snepp's 580-page book.

At issue, they say, is not whether he illegally disclosed classified information, but whether he has damaged the CIA's ability to protect secret information.

Attorney General Griffin Bell, who recently described the government's classification system as a "mare's nest," has not decided whether to recommend the government file a lawsuit against Snepp.

Before a decision is made, aides to Bell said Friday, the attorney general will discuss the matter with CIA Director Stansfield Turner and President Carter.

Meanwhile, lawyers in the Justice Department's civil division are researching applicable law in the matter in preparation of their own recommendation to Bell.

Much of that research centers around a decision issued by the 4th U.S. Circuit Court of Appeals in 1972, in which Chief Judge Clement Haynsworth ruled that the CIA secrecy oath is valid under two conditions:

- That the agency exercise its right to review material promptly.

- That it withholds approval only of classified information.

The Supreme Court allowed the decision to stand.

Snepp has said he used no agents' names, codes or classified information in the book.

The question a Justice Department official said, boils down to what the government can reasonably expect to accomplish by suing Snepp.

"What if we sue him and the jury finds that he did violate the secrecy oath — and there's no question that he did — and then awards the government a judgment of \$1 against him?" this official asked.

"What have we accomplished then?"

Bell recently told a group of reporters that a lawsuit would settle remaining questions about the secrecy oath's validity and serve notice that it will be enforced. Should the oath be overturned, Bell said, it would force the federal government to deal with the entire problem of classified information.

Fifth District Rep. Wyche Fowler, a member of the new House Intelligence Committee and a critic of government classification procedures, sees it about the same.

"He (Snepp) can't have it both ways," Fowler said. "If he deliberately deceived his government because of some higher obligation he felt he had to reveal certain things that were being withheld, then publication of the book should be reward enough for him."

"He ought not to be allowed to profit from it, too."

Fowler contends that Snepp occupied a position of trust in his role as a CIA agent and, regardless of his contract, can be sued for violating that trust. The theory, which is being researched in the Justice Department's civil division, holds that Snepp can be sued for all of his royalties from the book. "Let the taxpayers have the money from the book," Fowler suggests,

"because they paid the cost of his having learned this information, while he was on their

payroll."

CIA Director Turner has been described as adamant in his requests that the Justice Department file suit against Snepp.

Turner says Snepp not only violated his contract but also violated a personal pledge to present the work to the CIA for review before it was published.

In the book Snepp contends the CIA station chief in Saigon ignored intelligence reports that the North Vietnamese were about to attack the South Vietnamese capital and therefore wasted valuable evacuation time.

He recently was quoted by Newsweek:

"If station chiefs in the future think, 'I may have a son of a bitch like Snepp on my staff when they evaluate intelligence reports, I will have made a small measure of reform.'"

CIA sources say the question that troubles Turner is that he may have on his own staff "a son of a bitch like Snepp," who may also be willing to violate his secrecy oath — unless the government comes down hard in this case.